

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SCOTT D. MCCLURG, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Pertaining to Cases Consolidated for Discovery
)	and Pretrial Proceedings under Lead Case No.
MALLINCKRODT LLC, et al.,)	4:12CV00361 AGF
)	
Defendants.)	
)	

**BUTLER PLAINTIFFS’¹ RESPONSE TO DEFENDANTS’ MOTION
TO EXTEND CMO DEADLINES**

Plaintiffs agree to a 70 day extension to all deadlines, including depositions of Defendant’s experts, on the grounds that those depositions be completed (remotely if necessary) within those 70 days. Defendants have been unwilling to commit to producing any of their experts remotely, even with a 70 day extension. Should it be unfeasible for each expert to appear in the same room as the court reporter, videographer, and attorneys within the next 70 days, Defendants plan to ask for a further extension rather than offering to timely produce their experts remotely. There are too many uncertainties to extend the deadlines for 70 days without providing for remote depositions if necessary. These experts are located throughout the country and are subject to varying travel restrictions and social distancing orders. And given Defendants’ claim that they are “older adults who are at elevated risk for complications should they contract COVID-19,” they should be able to choose for themselves if they prefer a remote, as opposed to an in-person deposition. Respectfully, the Court should grant them that choice by extending the deadlines for 70 days and permitting remote depositions within this time frame so that expert depositions can be completed

¹ The *Butler* Plaintiffs are the four Plaintiffs in *Butler v. Mallinckrodt LLC*, No. 4:18-cv-01701-AGF; *Koterba v. Mallinckrodt LLC*, No. 4:18-cv-01702-AGF; *Hines v. Mallinckrodt LLC*, No. 4:18-cv-01703-AGF; and *Walick v. Mallinckrodt LLC*, No. 4:18-cv-01704-AGF

remotely if needed. Plaintiffs submit a proposed order as Exhibit A which is identical to the one Defendants submitted with the addition of paragraph 5, which reads: “In light of the current COVID-19, any depositions conducted in this case may be done so remotely in order to meet these deadlines.”

WHEREFORE, for the reasons stated above, *Butler* Plaintiffs respectfully ask the Court to enter an Order extending the remaining dates by approximately seventy (70) days, allowing for Defendants’ experts to be produced for depositions remotely during this extended time, as reflected in Exhibit A.

Respectfully Submitted,

HUMPHREY, FARRINGTON & McCLAIN, P.C.

/s/ Jonathan Soper

Kenneth B. McClain #32430

Jonathan M. Soper #61204

Colin W. McClain #64012

221 West Lexington, Suite 400

Independence, MO 64050

Telephone: (816) 836-5050

Facsimile: (816) 836-8966

kbm@hfmlegal.com

jms@hfmlegal.com

cwm@hfmlegal.com

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of April, 2020, I electronically filed the above with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to counsel of record.

/s/ Jonathan Soper

SHOOK, HARDY & BACON LLP
David R. Erickson # 31532MO
Steven D. Soden # 41917MO
Anthony R. Martinez # 61791MO
2555 Grand Boulevard
Kansas City, MO 64108-2613
Phone: (816) 474-6550
Fax: (816) 421-5547
derickson@shb.com
ssoden@shb.com
amartinez@shb.com
**ATTORNEYS FOR DEFENDANT
MALLINCKRODT LLC**

RILEY SAFER HOLMES & CANCELILA,
LLP
Brian O. Watson, #68678MO
70 W. Madison St., Ste. 2900
Chicago, Illinois 60602
Telephone: (312) 471-8700
Facsimile: (816) 836-8966
bwatson@rshc-law.com
**ATTORNEYS FOR DEFENDANT
COTTER CORPORATION (N.S.L)**